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UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION
* * *

DOUGLAS WRIGHT,
Plaintiff,
-v- File No. 2:16-CV-12113
CORIZON HEALTH, INC., a Tennessee Corporation, BETSY SPREEMAN, DR. KEITH PAPENDICK, and DR. STEVEN BERGMAN, in their individual and official capacities,
Defendants.
_____/

The deposition of STEVEN BERGMAN, D.O., taken under the provisions of the Federal Rules of Civil Procedure, before Tuesday L. Brighton, RMR/CSR-3563 and Notary Public, at 525 West Ottawa, 4th Floor, in the city of Lansing, Michigan, commencing at about 1:03 P.M. on the 5th day of October, 2017, pursuant to notice.

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APPEARANCES:
THOMAS E. KUHN, P.C.
BY: Thomas E. Kuhn
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On behalf of Plaintiff

CHAPMAN LAW GROUP
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On behalf of Defendants Corizon Health, Inc., Dr. Papendick, and Dr. Bergman

MICHAEL R. DEAN
Assistant Attorney General
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On behalf of Defendant Spreeman

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EXHIBITS:
None submitted.

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Lansing, Michigan
October 5, 2017
* * *

S T E V E N B E R G M A N, D. O.,
a witness having been first duly sworn, was examined and testified under oath as follows:

EXAMINATION

BY MR. KUHN:

Q Sir, can you state your full name for the record, please?

A Sure. Steven with a v, Paul Bergman, B-e-r-g-m-a-n.

Q Dr. Bergman, my name is Tom Kuhn. I represent the plaintiff. This deposition is being taken pursuant to notice and may be used for any purpose allowable under the applicable court rules. If there's anything that's unclear to you or you don't understand what I'm trying to ask please have me restate the question, okay?

A Yes.

Q Again, typically anyone involved with Corrections we don't ask for personal information on the record but rather an agreement or stipulation that if we need you as a witness at trial that we can serve you through the attorney for Corizon. Is

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that okay with you?

A That is okay. You bet.

Q All right. Thank you. A few general background questions, sir. Can you give me a brief chronology of your formal education starting with high school. General dates, degrees, programs, colleges, whatever.

A Sure. I graduated high school in 1970, Western Michigan Christian High School in Muskegon. I attended Calvin College from '70 to '74, received a Bachelor of Science degree, premed. I began a master's program at Western Michigan University in 1978, was not completed. I began medical school at Chicago College of Osteopathic Medicine in

1980, graduating in 1984. Completed an internship in 1985 and went into general practice, primary care medicine at that point. I did subsequently take the board exam and became board certified in family practice. No other medical training after that other than, of course, CME.

Do you want -- do you want nonmedical training?

Q Sure. What nonmedical training have you had?

A Oh, I began work for a Master's in Biblical Studies at Grand Rapids Theological Seminary in 2015.

Q Okay. And can you give me a brief chronology of your professional career as a doctor.

A Sure. After graduating internship in 1985 I began family practice and continued in family practice until 2006. I took some time off and started with -- I'm sorry, 2008, not 2006, and I started with Corizon, then known as Prison Health Services, PHS, in 2010, and I've worked for PHS, subsequently Corizon, since that time.

Q And what roles have you had with PHS and then Corizon?

A For the first 18 months I was an on-site physician in Muskegon and following that I was promoted to regional medical director in 2011 and have had that position since then.

Q And what region are you responsible for?

A My region covers 13 prisons primarily in southwest Michigan. I have -- I'm responsible for three prisons in Muskegon, four in Ionia, two in Carson City, one in Coldwater, and three in Jackson.

Q And what do you do as a regional medical director?

A As a regional medical director I provide oversight to the providers who work in each of those facilities and offer -- and also give medical advice kind of as a second opinion or oversight when medical issues come up that are difficult to resolve or need additional information.

Q Okay. And who do you report to?

A I report to Dr. Jeff Bomber, who's the State medical director for Corizon.

Q Where is he located?

A His office is the same as mine in Lansing on Millennium Drive.

Q So have you had a chance to review anything prior to your deposition related to this case?

A I have.

Q What have you reviewed?

A I reviewed the medical record.

Q That's the entire electronic medical record for

Mr. Wright?
A I can't say I've reviewed the entire electronic medical record but I reviewed those parts in which I play a role.
Q And what parts were those?
A I was -- I was asked to review the medical care that was given related to his knee injury by PA Sperling and to review the utilization management request that had been done. I believe

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that started in approximately February of 2016.
Q What's utilization management?
A I'm sorry, excuse me?
Q What is utilization management?
A Utilization management is a process where providers at each facility request permission to do testing outside of the facility, things like consults with specialists, perhaps imaging studies like MRIs or CAT scans, ultrasounds, those kinds of things. Anything that's done outside of the facility requires approval from the utilization management staff, which is a function of Corizon.
Q And where is the utilization staff located?
A They -- at that time they were all located at the Millennium Drive office in Lansing.
Q What is the role of utilization management?
A Utilization management's role is to review requests that are sent to them from the providers in the field and make decisions based on evidence-based medicine as to the next appropriate test or treatment that would be indicated for a given patient in each situation.
Q Okay. So who -- who do they get these requests from?
A The providers who work at each prison. It could

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be a physician or a mid-level, either a PA or a nurse practitioner, who is doing the direct patient care would make a request to the utilization management team.
Q So how does that work?
A If a provider, again, either a physician or a mid-level, is seeing a patient and through the course of their history, physical, and treatment feel like additional testing or specialty care would be indicated they complete a request, which we call a 407 request, and that is submitted to the utilization management team. In that request they lay out their reasons for wanting additional testing or treatment and the utilization management team evaluates that request based on evidence-based medicine from sources such as UpToDate or InterQual and make a decision based on that evidence-based medicine.

Q What does evidence-based mean?
A Evidence-based means that a group of physicians meet on a regular basis. They evaluate literature. They look to see if there is evidence of a particular procedure or a particular testing procedure is helpful and is useful and is appropriate.

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Q And what's InterQual?
A InterQual is a computer-based system that looks primarily at things like surgical procedures and things like that and, again, looking at it from a -- is there evidence that doing a particular procedure at a particular time, is there evidence that it's helpful or appropriate.
Q And what was the other thing that they looked at besides the InterQual?
A UpToDate.
Q What is UpToDate?
A UpToDate is a computer and internet-based web site. Again, it is dictated by a group of specialists in all different areas of medicine. These specialists get together and they look at the literature and they come out with evidence-based recommendations for different procedures. They begin with the diagnostic criteria that are necessary, followed by appropriate testing and appropriate treatment and, finally, appropriate follow-up.
Q So who is on the utilization management group?
A Well, there are a number of -- I'm not sure even what their title is, I apologize for that, but there are a number of people who are

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administrative assistants, I suppose, to enter the data into the computer system and forward it to appropriate people who evaluate the request and then receive the answer and enter it back into the electronic medical record.
There's also an RN staff of, I believe, three, who have the ability to answer requests based on protocol. There are certain things that are just automatically approved based on those protocols and they can process those.
Anything that's not approved by protocol is forwarded to Dr. Papendick, who is the director of outpatient utilization management.
Q Okay. And you indicated that there would be people who evaluate the requests. Who evaluates the requests?
A Well, if it's a request that can be evaluated based on protocol the RNs will evaluate it and approve it based on the protocol and if it's not a protocol situation it goes to Dr. Papendick and he

evaluates it and makes a determination.
Q Okay. What does protocol mean?
A Protocol are criteria that are established so that if a patient has a certain diagnosis, a particular diagnosis, a particular group of symptoms, they

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automatically will be approved to have a procedure.
Q Are these written; are they in writing?
A I believe they are, yes.
Q Is there any protocol that relates to a torn meniscus?
A I do not believe so.
Q Okay. So anything with a torn meniscus is going to go to Dr. Papendick; is that a fair statement? If they're asking for an outside consult or a test or anything related to a torn meniscus it's going to go to Dr. Papendick; is that a fair statement?
A It's fair if we qualify it as I think you just did, that if -- anything that would be done outside of the facility, any requests for outside evaluations or treatments, would go to Dr. Papendick, yes.
Q And how does he make his decision?
MS. VAN THOMME: Object to foundation. You may answer.
A Again, as we talked about just a minute ago, he uses the established evidence-based medicine, UpToDate primarily. When it comes to the majority of his decisions he uses UpToDate. We also use the cancer guidelines, NCCN cancer guidelines, if

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there's cancer involved. Those are the two primary sources that he refers to.
Q (BY MR. KUHN): Now, UpToDate, this is some sort of written record that they have?
A It's a computer-based, internet-based web site that we can go to, and it's updated regularly. The latest information, the latest literature, is reviewed and recommendations are updated on a very regular basis, at least quarterly, if not monthly.
Q Have you ever looked at the UpToDate data related to torn meniscus?
A I have.
Q Okay. And what kind of information is on there?
A I don't remember the exact information. I haven't looked at it in a while, but it will talk about the diagnosis criteria. It will talk about imaging, x-ray versus CAT scan versus MRI, when those are appropriate to get. It will also talk about treatment options. Conservative treatment is typically recommended first, as I recall. Surgical treatment is recommended as a -- a procedure that can be done if conservative

Dr. Papendick ATP'd the primary treating physician's request for an orthopedic consult?
A Yes.

Q How many other cases?
A Boy, I don't know off the top of my head. Dr. Papendick probably reviews, I'm guessing, a hundred consults a week or something, a hundred requests a week or something. I don't know his exact numbers, but I know he does a lot of them, and I cover about a third of the patients in the state, so, yeah, we've had lots of opportunities over the years for him to ATP consults for surgery.
Q Okay. And consults for imaging.
A Same.
Q Is there some record kept of the cases that Dr. Papendick has brought to his attention?
MS. VAN THOMME: Object to foundation.
A I don't know the answer to that. Every case that is brought to him is in the electronic medical record for that patient. Whether -- I don't know specifically what kind of log or record there is. I know we see statistics on occasion. He approves somewhere between -- somewhere around 85 percent of requests get approved, 15 percent get an alternative treatment plan. That varies. It's been as high as 90 in some quarters.
Q (BY MR. KUHN): Okay. So you do see statistics of -- concerning what Dr. Papendick is doing.
A On occasion, yep.
Q And where do you get those statistics?
A From the utilization department. I don't know if he creates those reports or if someone else does. I don't know.
Q Do you know anyone else in the utilization department other than Dr. Papendick and any other individual you've listed already in this deposition?
A No.
Q Where is the utilization department located now?
A The department is on the -- in the office on Millennium, the same office that I have a cubicle at. Dr. Papendick now works remotely, so he's not physically located in the office any longer. I believe he has a home office that he does that from, although right now he's not working. He's in the hospital.
Q Who is doing all the ATPing now?
MS. VAN THOMME: Object to form.
A Dr. Stacy is covering him at the present time.
Q (BY MR. KUHN): Who is Dr. Stacy?
A Dr. Stacy is another utilization management